

WHERE THE LINES ARE DRAWN

Most redistricting bodies — whether a legislature, a commission, or a court — have substantial discretion to draw district lines, but there are a few important constraints. Every state’s districts must comply with federal law. State constitutions may also impose constraints of their own.

Federal law

- **Equal population.** The “one person, one vote” cases of the 1960s established that under the U.S. Constitution, each person’s vote should be worth the same, so that local, state, and federal legislative districts within a state have to have equal population. But “equal population” means different things for different districts.

Congressional districts within a state must basically have the exact same number of voters. **State and local districts** can have a population difference of about 10% between the largest and smallest districts, as long as there’s a good reason (usually one of the “traditional” state-law criteria below) for the disparity.

Some states set stricter limits than the federal standard: Colorado, for example, allows at most 5% difference between the largest and smallest districts; and Iowa says that the average deviation from the average district population must be less than 1%.

- **Race and minority rights.** The federal Voting Rights Act of 1965 protects against redistricting techniques that are used to limit minority communities’ ability to achieve fair representation. Two sections of the Act are particularly important for redistricting.

Section 2 of the VRA prohibits district lines that deny minority voters an equal opportunity “to participate in the political process and to elect representatives of their choice.” Essentially, district lines can’t be drawn to dilute minority voters’ voting power if:

- A minority community can fit reasonably in a **geographically compact** district;
- Voting-age minorities would represent a **majority of the voters** in that district;
- The minority population would usually **vote for the same candidate**;
- The white population would usually **vote for a different candidate**; and
- The minority vote is not otherwise protected given the “**totality of the circumstances**.”

Section 5 of the VRA works a bit differently. In **covered jurisdictions** with a history of low registration or turnout (all of 9 states, and parts of 7 others), the government may not change district lines without getting the changes approved by the Justice Department or federal court (a process called “**preclearance**”). New district lines will be precleared if:

- The new map is **not intended to dilute** minority votes; and
- The new map leaves minority voters **no worse off** overall than they would be if the old lines were applied to the community, given its present demographics.

Other than satisfying the VRA, a state **may** take race into account as one of several factors when drawing district lines — but without a compelling reason, race cannot be the “**predominant**” reason for a district’s shape. Courts haven’t provided much further guidance.

State law

After accounting for districts required by the Voting Rights Act, there are still countless ways to divide the remainder of a jurisdiction into districts of equal population. In drawing the rest of the districts, some state constitutions and state laws provide additional constraints:

- **Contiguity**. Most states require districts to be “**contiguous**,” with all parts of the district physically adjacent to each other. Water — rivers, lakes, bays — gives mapmakers wiggle room, as a sort of bridge to “adjacent” land that may be quite far away.
- **Compactness**. Most states also require districts to be reasonably “**compact**,” though few define the term. A district where constituents generally live near each other or with a regular geometric shape is usually more compact than one with long, extended tendrils. In practice, compactness tends to be in the eye of the beholder: people say they know it when they see it.

Academics have proposed more than 30 numerical measures of compactness, focusing on 1) how contorted the district boundaries are, 2) how spread out a district is from a central core, or 3) where the district’s population “center of gravity” is. A district that is compact by one measure may be less compact by another. Only five states (AZ, CO, IA, MI, MT) specify which measure is actually to be used in their state: AZ and CO focus on contorted boundaries, MI and MT focus on the spread, and IA asks mapmakers to account for both.

- **Political boundaries**. Most states also take some account of **political boundaries** — county, city, town, or ward lines — in drawing districts. Some demand that units like counties be kept together whenever possible, or if a county must be split to equalize population or to draw a district under the Voting Rights Act, to be split into as few pieces as possible. Others simply ask that boundaries be followed when it is practicable to do so.
- **Communities of interest**. Twenty-four states consider **communities of common interest** as well. Kansas’ definition is relatively common: in keeping voters together, map drawers are asked to consider “[s]ocial, cultural, racial, ethnic, and economic interests common to the population of the area, which are probable subjects of legislation.” Though it is rare for legislators to articulate specific communities of interest when drawing district lines, districts are often justified in litigation based on a purported community they serve.
- **Political outcomes**. Some incumbents may try to draw districts so that they contain as many reliable partisan supporters as possible; a few states try to rein this in either by **prohibiting partisan favoritism** or by affirmatively encouraging **competition**. In the last redistricting cycle, nine states (CA, DE, HI, IA, ID, MT, NE, OR, WA) prohibited drawing state legislative districts in order to unduly favor a candidate or political party. Two (AZ and WA), both with independent commissions, affirmatively encouraged the commissions to draw competitive districts when doing so did not interfere with other redistricting goals.
- **Nesting**. In 14 states, state House districts are **nested** inside state Senate districts: a Senate district will be made up of 2 or 3 House districts, and will have the same boundaries. Another four states (CA, HI, NY, and WY) ask to nest districts if possible, but this is often ignored.